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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/997,166	11/28/2001	Mark Maggenti	000211D10	5872
23696	7590	12/01/2005	EXAMINER	
QUALCOMM, INC			NGUYEN, THUAN T	
5775 MOREHOUSE DR.			ART UNIT	
SAN DIEGO, CA 92121			PAPER NUMBER	

2685

DATE MAILED: 12/01/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

09/997,166

Applicant(s)

MAGGENTI ET AL.

Examiner

THUAN T. NGUYEN

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-33 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-33 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |   |   |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                        | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)    | Paper No(s)/Mail Date. ____.  |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date ____.   | 6) <input type="checkbox"/> Other: ____.                                    |

## DETAILED ACTION

### *Claim Rejections - 35 USC § 112*

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

*The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.*

2. Claims 1-33 are rejected under 35 U.S.C. 112, second paragraph, as being incomplete for omitting essential steps, such omission amounting to a gap between the steps. See MPEP § 2172.01. The omitted steps are: the step of “sending a message” from where and to which controller, and how the message identifies whether the communication is a participant in the net, and the listing of the communication to where, to the mobile itself or to which controller in claims 1, 9, 17, and 25.

### *Claim Rejections - 35 USC 102*

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

*A person shall be entitled to a patent unless --  
(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.*

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4. Claims 1-33 are rejected under 35 U.S.C. 102(e) as being anticipated by Ganuchau, Jr. et al. (U.S. Patent No. 6,529,740 B1).

Regarding claims 1-2, Ganuchau teaches a communication system and its corresponding method for determining whether participants to be within a group communication network or not, by introducing or disclosing (as the foundation concept for group communication and conventional one-to-one communication) the point-to-multipoint (PTM) and point-to-point (PTP), wherein point-to-multipoint PTM referring to a group communication as one user or one wireless communication device communicates to multiple of remote wireless devices, and point-to-point PTP refers to a conventional communication as one user or one wireless communication device communicates to another wireless one (see col. 2/lines 11-60). In addition, Ganuchau discloses a controller (Figs. 2 & 3) for maintaining and switching the user request for communication from either PTM or PTP, while keeping in mind that the user or subscriber needs to register with the network for communication, for instance, the authorization process in switching or routing the correct or appropriate requests from the user to whether a point to multipoint (group communication or "registering to the net") or to a point-to-point communication, which Ganuchau calls as "a monolog" (Figs. 1-5 & 6-7, and col. 4/line 10 to col. 5/line 24). The procedure includes the steps of sending a message to a controller, and the message being determined by the controller whether the user prefers to participate within the group communication or not by listening to the communication device as if the communication device acknowledges or responses to the message within a predetermined time period. Then, if the controller does not recognize or detect that the user is wishing to engage or request for a point-to-point communication or PTM within a predetermined time period, the controller puts

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the communication device in inactive mode (Figs. 4-7, and col. 14/line 20-65 & col. 15/line 49 to col. 16/line 14) as in column 5, lines 12-24 points out clearly that the user may participate in PTP communications or in PTM communications for other groups.

As for claims 3-5, Ganuchau further discloses “wherein the message includes information identifying the communication device” (col. 10/lines 48-65 as the controller authorizes and identifies the communication device and its current location) and the message and the response includes a message identifier” (a token is used as a query task for initiating signaling messages with identifier—active flags, col. 11/lines 1-26, in determining whether a message is received and being responded or not, see col. 15/line 49 to col. 16/line 13).

As for claims 6-7, Ganuchau discloses the response “includes information indicating that the response corresponds to the message” (Fig. 5 for the process and col. 11/lines 1-51 for signaling messages with active flags and response from the devices, if any) and “indicating whether the communication device is a participant in the net” (the user is a participant in the net if a monolog is active, i.e., meaning the user/subscriber requests the PTM communication within the net of group communication, as indicated in Fig. 9, col. 17/line 44 to col. 18/line 48).

As for claim 8, Ganuchau further discloses “wherein the sending includes sending the message through a push-to-talk (PTT) device (Fig. 2, and col. 11/lines 1-17 as I/O section 68 of the device PTM 24 is a push-to-talk button function).

As for claims 9-16 and 17-24, these claims for a computer readable medium and a communication device, respectively, with same limitations addressed above are rejected for the reasons given in the scope of claims 1-8 as discussed in details above.

As for claims 25-33, Ganucheu further discloses these claims for a communication device for determining participants in a net within in a group communication comprising a transmitter, a receiver, a memory unit, a processor, and a push-to-talk function (Ganucheu, Fig. 2, and col. 6/lines 5-37; and col. 11/lines 1-17 for requesting a token for push-to-talk button function-regarding also as a PTT device) and applied same method of claims 1-8 are rejected for the reasons given in the scope of claims 1-8 as noted.

***Response to Arguments***

5. Applicant's arguments filed on 8/22/05 have been fully considered but they are not persuasive.

Applicants argue and try to point out to Ganucheu's inappropriate paragraphs for avoiding the disclosure and teaching of Ganucheu. The paragraphs which the applicants refer to in column 7/lines 17-32 simply refer to checking whether a call or a user is participating within the network or not, and further in col. 7/line 43 to col. 8/line 5, Ganucheu further describes as the user requests for access, which meaning equivalent to whether the user wants to participate in the group call or the net or not, the base station controller exchanges a series of messages to the mobile user such as determination or adjustment of transmission parameters, power level, carrier frequency, time slot timing to accommodate the mobile user for Doppler and propagation delay and meets the standards of the base station; and by doing or performing a series of these exchange messages, it surely does not occur in a nano second, but it would require a predetermined time period for doing the task, as previously disclosed in claim 1.

Therefore, the examiner respectfully disagrees with the applicants and stands with the rejection as explained herein.

***Conclusion***

6. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

7. **Any response to this action should be mailed to:**

Commissioner of Patents and Trademarks

Washington, D.C. 20231

**or faxed to the New Central Fax number:**

(571) 273-8300, (for Technology Center 2600 only)

Hand deliveries must be made to Customer Service Window,

Randolph Building, 401 Dulany Street, Alexandria, VA 22314.

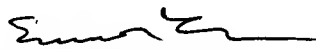
8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Tony Thuan Nguyen whose telephone number is (571) 272-7895. The examiner can normally be reached on Monday-Friday from 9:30 AM to 7:00 PM, with alternate Fridays off.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Edward Urban, can be reached at (571) 272-7899.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Tony T. Nguyen  
Art Unit 2685  
November 22, 2005

  
EDWARD F. URBAN  
SENIOR PATENT EXAMINER  
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